

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA

vs.

: NO. CR-2-09-125
JUDGE MARBLEY

TED BARTLEY

GOVERNMENT'S SENTENCING MEMORANDUM

The United States submits that the probation officer has correctly calculated the advisory guideline sentencing range in the defendant's case. There are no objections to the Presentence Investigation Report. The advisory guideline range for the defendant is 24-30 months based on an offense level 13 and a criminal history category IV.

In United States v. Williams, 436 F.3d 706, 708 (6th Cir. 2006)), *cert. denied*, __ U.S. __, 127 S.Ct. 3043 (2007), the Sixth Circuit stated: "We now join several sister circuits in crediting sentences properly calculated under the Guidelines with a rebuttable presumption of reasonableness." Therefore, the United States submits that a sentence within the advisory guideline range would be reasonable under the rationale of United States v. Booker, 543 U.S. 220 (2005) and United States v. Williams.

However, because the United States is aware of the defendant's criminal behavior while out on bond awaiting sentencing in this case the government is recommending a sentence

of 30 months. This is the highest sentence possible within the guideline range. The government submits that prosecuting the defendant for passing additional counterfeit notes would not serve any purpose as the defendant would receive a light sentence, even with a criminal history category IV.

The government submits that a sentence at the highest end of the guideline range would take into consideration the new criminal conduct (by increasing the sentence recommended by the probation officer by three months) and would allow the defendant more time to take advantage of the drug and alcohol programs within the Bureau of Prisons. Hopefully this additional time will be enough time for the defendant to reflect on how his past lifestyle has affected his children and his support of them.

Therefore, the United States is in agreement with defense counsel that the defendant should be sentenced to 30 months imprisonment.

Respectfully submitted,

WILLIAM E. HUNT
Acting United States Attorney

s/Marcia J. Harris
MARCIA J. HARRIS (0031632)
Assistant United States Attorney
303 Marconi Boulevard, Ste. 200
Columbus, Ohio 43215

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Sentencing Memorandum was served this 21st day of September, electronically on: Steven S. Nolder, Attorney for Defendant Ted Bartley.

s/Marcia J. Harris
MARCIA J. HARRIS (0031632)
Assistant United States Attorney